

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 610 – SB 837

March 22, 2013

**SUMMARY OF ORIGINAL BILL:** Authorizes local jurisdictions, having previously approved liquor-by-the-drink sales or retail package liquor stores, to hold a referendum authorizing the sale of wine in a “retail food store”.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue –

\$2,419,000/FY14-15/ABC Fund

Exceeds \$4,217,500/FY15-16/ABC Fund

Exceeds \$3,690,000/FY16-17 and Subsequent Years/ABC Fund

\$1,724,800/FY14-15/General Fund

\$7,278,200/FY15-16/General Fund

Exceeds \$7,677,700/FY16-17 and Subsequent Years/General Fund

Increase State Expenditures –

\$1,458,100/FY14-15/ABC Fund

\$2,115,300/FY15-16/ABC Fund

\$2,246,100/FY16-17/ABC Fund

\$1,912,800/FY17-18 and Subsequent Years/ABC Fund

Increase Local Revenue –

Exceeds \$2,260,300/FY14-15/Permissive

Exceeds \$5,873,600/FY15-16/Permissive

Exceeds \$6,014,800/FY16-17 and Subsequent Years/Permissive

**SUMMARY OF AMENDMENT (005231):** Adds language to the original bill prohibiting a “retail food store” licensed to sell wine, from selling or giving away wine except for times when beer is permitted to be sold or given away for off-premises consumption in the jurisdiction in which the store is located.

## **FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

### **Unchanged from the original fiscal note.**

General Assumptions for the bill as amended:

- Licenses will be issued by the Alcoholic Beverage Commission (ABC) only to qualified “retail food stores” in jurisdictions that have approved either liquor-by-the-drink or retail package liquor stores, and meet all other requirements.
- Upon passage, the provisions of the bill will become effective January 1, 2014.
- Referendums will be held as part of regularly scheduled elections. Any fiscal impact to local governments associated with the referendums will be not significant.
- The first referendum will be held in November 2014. As a result, the first fiscal year impacted by this bill is estimated to be FY14-15. The first full fiscal year impacted by this bill is estimated to be FY15-16.
- Seventy-five percent of local government jurisdictions that have adopted measures authorizing the sale of liquor-by-the-drink or package liquor store sales will authorize the sale of wine at retail food stores.
- The wine excise tax, state sales tax, local option sales tax, the enforcement tax on the sale of alcoholic beverages, and municipal inspection fees will be impacted by this bill.
- The bill will result in an increase in all tax revenue and fee revenue identified above; however, determining a precise estimate for such revenue increases is difficult in some instances due to a number of unknown factors, such as the extent of stores that will begin selling wine, the extent of such sales by these stores, the prices charged for wine, the impact upon sales of liquor stores that currently sell wine, and the timing for which retail food stores actually begin selling wine.
- Based upon prior research by the Fiscal Review Committee staff, conducted for a similar bill from the 2011 legislative session, wine sales for off-premise consumption will increase by 33 percent as direct result of this bill. This increase of 33 percent is assumed to take into account any impact incurred by existing liquor stores that currently sell wine. A net 33 percent increase in such sales will be utilized for calculating increased revenue to state and local governments; provided that more precise data is not available.
- Any permissive increase in local government expenditures is estimated to be not significant.
- Prohibiting retail food stores, that are authorized to sell wine for off-premises consumption, from selling wine except for the times that beer is authorized to be sold for off-premises consumption, will not change the fiscal impact estimated for the original bill.

Assumptions related to license fee revenue and enforcement tax (ABC Fund):

- Based upon an analysis of food establishments inspected by the Department of Agriculture, there are approximately 6,527 current stores that could potentially qualify based upon the type of items sold in the stores and the store locations being in an area

where liquor-by-the-drink or package liquor stores have been approved. Of the 6,527 current establishments, there are approximately 910 variety stores, 351 drug stores, 864 traditional grocery stores, and 4,402 markets.

- The following percentages of each type of current store are assumed to meet all necessary qualifying criteria: 66 percent of variety stores, 57 percent of drug stores, 83 percent of traditional grocery stores, and 36 percent of markets.
- Based upon the above percentages, the total number of current stores that will begin selling wine is estimated to be 3,103  $[(910 \times 66\%) + (351 \times 57\%) + (864 \times 83\%) + (4,402 \times 36\%)]$ .
- Each current store licensee will be subject to a one-time application fee of \$400. The one-time increase in state revenue to the ABC Fund associated with the application fee for current stores is estimated to be \$1,241,200  $(3,103 \times \$400)$ . Fifty percent of these application fees will be collected in FY14-15; therefore, a one-time increase in state revenue to the ABC Fund of \$620,600  $(\$1,241,200 \times 50\%)$  in FY14-15. The other 50 percent of application fees will be collected in FY15-16; therefore, a one-time increase in state revenue to the ABC Fund of \$620,600 in FY15-16.
- Beginning in FY16-17, there will be new stores opening that will begin selling wine. The number of new licenses issued for new businesses each year is estimated to be 62 (which represents approximately two percent annual growth); therefore, a recurring increase in state revenue to the ABC Fund is estimated to be \$24,800  $(62 \times \$400)$ .
- Each current store licensee will be subject to a recurring license fee of \$1,100. Of the 3,103 current stores that obtain licenses, fifty percent will pay this annual license fee beginning in FY14-15 and the other 50 percent will pay the annual license fee beginning in FY15-16. As a result, an increase in state revenue to the ABC Fund estimated to be \$1,706,650  $(3,103 \times \$1,100 \times 50\%)$  for FY14-15; and an increase in state revenue to the ABC Fund estimated to be \$3,413,300  $(3,103 \times \$1,100)$  in FY15-16.
- Beginning in FY16-17, there will be new stores opening that will sell wine. The number of licenses issued for new businesses each year is estimated to grow by approximately two percent a year; therefore, a recurring increase in state revenue to the ABC Fund estimated to exceed \$3,481,600  $(3,103 \times \$1,100 \times 102\%)$ .
- Current law authorizes a \$0.15 per case enforcement tax upon the sale of alcoholic beverages sold at wholesale in Tennessee. Revenue from this tax is deposited to the ABC Fund. FY11-12 collections attributable to wine sales were approximately \$556,305. Assuming the 33 percent growth in collections yields estimated recurring collections of \$739,886, the recurring increase in state revenue to the ABC Fund will be approximately \$183,581  $(\$739,886 - \$556,305)$  per year. Fifty percent of new licensees will pay the enforcement tax in FY14-15; therefore, the one-time increase in state revenue to the ABC Fund for FY14-15 is estimated to be \$91,791  $(\$183,581 \times 50\%)$ . The recurring increase in state revenue to the ABC Fund in FY15-16 and subsequent years is estimated to exceed \$183,581 (this also accounts for any subsequent growth in wine sales beyond FY15-16).
- The total increase in revenue to the ABC Fund in FY14-15 is estimated to be \$2,419,041  $(\$620,600 + \$1,706,650 + \$91,791)$ ; the total increase in revenue to the ABC Fund in FY15-16 is estimated to exceed \$4,217,481  $(\$620,600 + \$3,413,300 + \$183,581)$ ; the total recurring increase in revenue to the ABC Fund in FY16-17 and subsequent years is estimated to exceed \$3,689,981  $(\$24,800 + \$3,481,600 + \$183,581)$ .

Assumption related to municipal inspection fees:

- Pursuant to Tenn. Code Ann. §57-3-501, local governments are authorized to charge a permissive municipal inspection fee of a variable percentage (based on population) of the wholesale price of alcoholic beverages supplied by wholesalers. This fee is paid by licensed retailers within the municipality. Based upon a survey of local governments conducted by Fiscal Review Committee Staff, an amount estimated to exceed \$20,000,000 is collected by municipalities statewide each year. Based on information provided by the Department of Revenue (DOR), approximately one-third (or 33.3 percent) of wine excise tax revenue is derived from wine that is consumed on-premises, for which no growth will occur as a result of this bill. The remaining two-thirds (or 66.7 percent) of wine excise tax collections is derived from wine that is consumed off premises, for which growth will occur as a result of this bill.
- The recurring increase in municipal inspection fee revenue is reasonably estimated to exceed \$3,301,650 ( $\$20,000,000 \times 66.7\%$  for off-premises consumption  $\times 75\%$  of jurisdictions adopt  $\times 33\%$  growth as a result of the bill). The increase in local government revenue will exceed \$1,650,825 in FY14-15 ( $\$3,301,650 \times 50\%$ ); the recurring increase in local government revenue is estimated to exceed \$3,301,650 beginning in FY15-16.

Assumptions related to the wine excise tax:

- According to the DOR, the wine excise tax generated collections of \$12,053,452 in FY11-12.
- Based on information provided by DOR, approximately one-third (or 33.3 percent) of wine excise tax revenue is derived from wine that is consumed on-premises, for which no growth will occur as a result of this bill. The remaining two-thirds (or 66.7 percent) of wine excise tax collections is derived from wine that is consumed off-premises, for which growth will occur as a result of this bill.
- Based upon historical wine tax collections, wine excise tax revenue is estimated to grow 5.49 percent per year in the absence of this bill.
- Thirty-three percent revenue growth as a direct result of this bill is applied to the portion of wine excise tax revenue which is attributable to wine consumed off-premises.
- Seventy five percent of jurisdictions adopt the provisions of this bill.
- There will be a half-year impact (FY14-15) due to the effective date of the bill, which is January 1, 2014.
- Fifty percent of current businesses that elect to sell wine in retail food stores will begin doing so in FY14-15; the remaining 50 percent of current businesses that elect to sell wine in retail food stores will begin doing so in FY15-16.
- Pursuant to Tenn. Code Ann. § 57-3-306(b)(1), wine excise tax collections are distributed 82.5 percent to the General Fund and 17.5 percent to local governments.
- The fiscal impact relative to wine excise tax revenue is determined using numerous and complex calculations across multiple fiscal years, which are based on the previous assumptions stated. These calculations have been omitted from this fiscal note for the purpose of brevity. However, the calculations used for determining the following fiscal

impact relative to wine excise tax are on file with Fiscal Review Committee staff and can be provided upon request.

- The increase in state revenue to the General Fund is estimated to be \$481,500 in FY14-15; \$2,031,900 in FY15-16; and an amount exceeding \$2,143,400 in FY16-17 and subsequent years.
- The increase in local government revenue, pursuant to Tenn. Code Ann. § 57-3-306(b)(1), is estimated to be \$102,100 in FY14-15; \$431,000 in FY15-16, and an amount exceeding \$454,700 in FY16-17 and subsequent years.

#### Assumptions related to state and local sales tax:

- Based on information provided by the Department of Revenue, approximately, 100 bottles of wine were sold in Tennessee in FY11-12.
- One-third (or 33.3%) of these bottles (16,718,631) were sold for on-premises consumption. This number is assumed to remain constant under current law and under the provisions of this bill.
- Two-thirds (or 66.7 percent) of these bottles (33,487,469) were sold for off-premises consumption. The number of bottles that will be purchased for off-premises consumption is expected to grow by 33 percent as a result of this bill.
- Per historical growth for wine excise tax collections, the retail sale of wine is expected to grow by 5.49 percent per year under current law.
- Seventy five percent of jurisdictions adopt the provisions of this bill.
- There will be a half-year impact (FY14-15) due to the effective date of the bill, which is January 1, 2014.
- Fifty percent of current businesses that elect to sell wine in retail food stores will begin doing so in FY14-15; the remaining 50 percent of current businesses that elect to sell wine in retail food stores will begin doing so in FY15-16.
- The average price for a bottle of wine is estimated to be \$7.98 under current law.
- Due to increased competition, expected as a result of this bill, the average price of a bottle of wine is estimated to decrease to approximately \$7.58 per bottle (approximately a five percent price decrease). The current state sales tax rate is 7.0 percent; the average local option sales tax rate is estimated to be 2.5 percent.
- Pursuant to Tenn. Code Ann. § 67-6-103(a)(3)(A), local governments receive 4.603 percent of state sales tax revenue as state-shared sales tax revenue.
- Pursuant to Tenn. Code Ann. § 67-6-103(q), no portion of revenue derived from the 0.5 percent sales tax rate increase, from 5.5 percent to 6.0 percent (effective April 1, 1992), or the 1.0 percent sales tax rate increase, from 6.0 percent to 7.0 percent (effective July 15, 2002), shall be distributed to local government.
- The effective rate of apportionment to local government pursuant to the state-shared allocation is estimated to be 3.617 percent  $[(5.5\% / 7.0\%) \times 4.603\%]$ .
- The fiscal impact relative to state and local sales tax revenue is determined using numerous and complex calculations across multiple fiscal years, which are based on the previous assumptions stated. These calculations have been omitted from this fiscal note for the purpose of brevity. However, the calculations used for determining the following fiscal impact relative to sales tax revenue are on file with Fiscal Review Committee staff and can be provided upon request.

- The net increase in state sales tax revenue for FY14-15 is estimated to be \$1,243,300; for FY15-16 is estimated to be \$5,246,300; and for FY16-17 and subsequent years is estimated to exceed \$5,534,300.
- The total increase in local government sales tax revenue for FY14-15 is estimated to be \$507,400; for FY15-16 is estimated to be \$2,140,900; and for FY16-17 and subsequent years is estimated to exceed \$2,258,400.

Assumptions related to revenue impacts to the General Fund and to local governments:

- The total increase in state revenue to the General Fund for FY14-15 is estimated to be \$1,724,800 (\$481,500 from wine excise tax + \$1,243,300 from state sales tax revenue); for FY15-16 is estimated to be \$7,278,200 (\$2,031,900 from wine excise tax + \$5,246,300 from state sales tax revenue); for FY16-17 and subsequent years is estimated to exceed \$7,677,700 (\$2,143,400 from wine excise tax + \$5,534,300 from state sales tax revenue).
- The total increase in local government revenue for FY14-15 is estimated to exceed \$2,260,325 (\$1,650,825 from municipal inspection fees + \$102,100 from wine excise tax + \$507,400 from local sales taxes); for FY15-16 is estimated to exceed \$5,873,550 (\$3,301,650 from municipal inspection fees + \$431,000 from wine excise tax + \$2,140,900 from local sales taxes); for FY16-17 and subsequent years is estimated to exceed \$6,014,750 (\$3,301,650 from municipal inspection fees + \$454,700 from wine excise tax + \$2,258,400 from local sales taxes).

Assumptions related to required positions for ABC:

- ABC will require a total of 35 new positions, including 26 agents for regulating and investigating the new licensees, five secretaries, one administrative assistant to perform administrative functions necessary for the issuance of new licenses, one additional human resources staff person, and two training specialists.
- These positions will be phased-in over a three-year period as follows: 10 agents, four secretaries, one human resource position, one administrative assistant, and one training specialist (a total of 17 positions) in FY14-15; an additional 10 agents, one additional secretary, and one additional training specialist (a total of 12 positions) in FY15-16; and six additional agents in FY16-17.
- The recurring increase in state expenditures from the ABC Fund for each new agent position is estimated to be \$60,455 (\$32,412 salary, \$11,985 benefits, \$16,058 other). One-time state expenditures from the ABC Fund for each new agent position are estimated to be \$55,560, which includes costs for mental and physical examinations, equipment, training, computer and related accessories, and vehicle costs.
- The recurring increase in state expenditures from the ABC Fund for each new secretary position is estimated to be \$34,190 (\$21,460 salary, \$9,210 benefits, \$3,520 other). One-time state expenditures from the ABC Fund for each new secretary position are estimated to be \$5,125, which includes costs for supplies, equipment, training, and computer related costs.
- The recurring increase in state expenditures from the ABC Fund for the new human resources position is estimated to be \$42,200 (\$29,900 salary, \$10,500 benefits, \$1,800

other). One-time state expenditures from the ABC Fund for this position are estimated to be \$5,500 which includes costs for computer, software, supplies, etc.

- The recurring increase in state expenditures from the ABC Fund for the administrative assistant position is estimated to be \$38,200 (\$26,400 salary, \$10,000 benefits, \$1,800 other). One-time state expenditures from the ABC Fund for this position are estimated to be \$5,500, which includes costs for computer, software, supplies, etc.
- The recurring increase in state expenditures from the ABC Fund for each new training specialist position is estimated to be \$44,800 (\$28,650 salary, \$10,300 benefits, \$5,850 other). One-time expenditures for each of these positions are estimated to be \$4,500, which includes computer related costs and supplies.
- The total recurring increase in state expenditures from the ABC Fund for the 17 positions added in FY14-15 is estimated to be \$866,510 [(10 agents x \$60,455) + (4 secretaries x \$34,190) + \$42,200 + \$38,200 + \$44,800]. The total one-time increase in state expenditures from the ABC Fund for the 17 positions added in FY14-15 is estimated to be \$591,600 [(10 agents x \$55,560) + (4 secretaries x \$5,125) + \$5,500 + \$5,500 + \$4,500]. The total increase in state expenditures from the ABC Fund for FY14-15 is estimated to be \$1,458,110 (\$866,510 + \$591,600).
- The total recurring increase in state expenditures from the ABC Fund for 29 total positions (17 from FY14-15 + 12 for FY15-16) added by FY15-16 is estimated to be \$1,550,050 [(20 agents x \$60,455) + (5 secretaries x \$34,190) + \$42,200 + \$38,200 + (2 training specialists x \$44,800)]. The total one-time increase in state expenditures from the ABC Fund for adding the 12 new positions in FY15-16 is estimated to be \$565,225 [(10 agents x \$55,560) + \$5,125 + \$4,500]. The total increase in state expenditures from the ABC Fund for FY15-16 is estimated to be \$2,115,275 (\$1,550,050 + 565,225).
- The total recurring increase in state expenditures from the ABC Fund for 35 total positions (17 from FY14-15 + 12 from FY15-16 + 6 for FY16-17) added by FY16-17 is estimated to be \$1,912,780 [(26 agents x \$60,455) + (5 secretaries x \$34,190) + \$42,200 + \$38,200 + (2 training specialists x \$44,800)]. The total one-time increase in state expenditures from the ABC Fund for adding the 6 new positions in FY16-17 is estimated to be \$333,360 (6 agents x \$55,560). The total increase in state expenditures from the ABC Fund for FY16-17 is estimated to be \$2,246,140 (\$1,912,780 + \$333,360).
- The recurring increase in state expenditures beginning in FY17-18 is estimated to be \$1,912,780.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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